Amendments

P.L. 105-34, § 970(a):

Act Sec. 970(a) amended Code Sec. 132(e)(2) by adding at the end a new sentence to read as above.

The above amendment applies to tax years beginning after December 31, 1997.

P.L. 99-514, § 1114(b)(5)(A)(i)-(ii):

Act Sec. 1114(b)(5)(A)(i)-(ii) amended Code Sec. 132(e)(2) by striking out "officer, owner, or", and by striking out "officers, owners, or". Prior to amendment, Code Sec. 132(e)(2) read as follows:

(2) TREATMENT OF CERTAIN EATING FACILITIES.—The operation by an employer of any eating facility for employees shall be treated as a de minimis fringe if—

(A) such facility is located on or near the business premises of the employer, and

(B) revenue derived from such facility normally equals or exceeds the direct operating costs of such facility.

The preceding sentence shall apply with respect to any officer, owner, or highly compensated employee only if access to the facility is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

The above amendment applies to years beginning after December 31, 1987.

[Sec. 132(f)]



(f) QUALIFIED TRANSPORTATION FRINGE.—

- (1) IN GENERAL.—For purposes of this section, the term "qualified transportation fringe" means any of the following provided by an employer to an employee:
 - (A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.
 - (B) Any transit pass.
 - (C) Qualified parking.

[Caution: Code Sec. 132(f)(2), below, prior to amendment by P.L. 105-178, applies to tax years beginning on or before December 31, 1998.]

- (2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—
 - (A) \$60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and
 - (B) \$155 per month in the case of qualified parking.

[Caution: Code Sec. 132(f)(2), below, as amended by Act Sec. 9010(b)(2)(A)-(B) of P.L. 105-178, applies to tax years beginning after December 31, 1998, and on or before December 31, 2001.]

- (2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—
 - (A) \$65 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and
 - (B) \$175 per month in the case of qualified parking.

[Caution: Code Sec. 132(f)(2), below, as amended by Act Sec. 9010(c)(1)-(2) of P.L. 105-178, applies to tax years beginning after December 31, 2001.]

- (2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—
 - (A) \$100 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and
 - (B) \$175 per month in the case of qualified parking.
- (3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term "qualified transportation fringe" includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.
- (4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.
 - (5) DEFINITIONS.—For purposes of this subsection—
 - (A) TRANSIT PASS.—The term "transit pass" means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—
 - (i) on mass transit facilities (whether or not publicly owned), or

- (ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).
- (B) COMMUTER HIGHWAY VEHICLE.—The term "commuter highway vehicle" means any highway vehicle—
 - (i) the seating capacity of which is at least 6 adults (not including the driver), and
 - (ii) at least 80 percent of the mileage use of which can reasonably be expected to be-
 - (I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and
 - (II) on trips during which the number of employees transported for such purposes is at least $\frac{1}{2}$ of the adult seating capacity of such vehicle (not including the driver).
- (C) QUALIFIED PARKING.—The term "qualified parking" means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.
- (D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.
- (E) EMPLOYEE.—For purposes of this subsection, the term "employee" does not include an individual who is an employee within the meaning of section 401(c)(1).

[Caution: Code Sec. 132(f)(6), below, prior to amendment by P.L. 105-178, applies to tax years beginning on or before December 31, 1998.]

- (6) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—
 - (A) such dollar amount, multiplied by
 - (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

If any increase determined under the preceding sentence is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.

[Caution: Code Sec. 132(f)(6), below, as amended by Act Sec. 9010(b)(1) of P.L. 105-178, applies to tax years beginning after December 31, 1998, and on or before December 31, 2001.]

- (6) Inflation adjustment.—
- (A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to—
 - (i) such dollar amount, multiplied by
 - (ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1998" for "calendar year 1992".
- (B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.

[Caution: Code Sec. 132(f)(6), below, as amended by Act Sec. 9010(c)(2) of P.L. 105-178, applies to tax years beginning after December 31, 2001.]

- (6) INFLATION ADJUSTMENT.—
- (A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to—
 - (i) such dollar amount, multiplied by
 - (ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1998" for "calendar year 1992".
- In the case of any taxable year beginning in a calendar year after 2002, clause (ii) shall be applied by substituting "calendar year 2001" for "calendar year 1998" for purposes of adjusting the dollar amount contained in paragraph (2)(A).
- (B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.
- (7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms "working condition fringe" and "de minimis fringe" shall not include any qualified transportation fringe (determined without regard to paragraph (2)).

Amendments

P.L. 105-178, § 9010(a)(1):

Act Sec. 9010(a)(1) amended Code Sec. 132(f)(4) to read as above. Prior to amendment, Code Sec. 132(f)(4) read as follows:

(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee. This paragraph shall not apply to any qualified parking provided in lieu of compensation which otherwise would have been includible in gross income of the employee, and no amount shall be included in the gross income of the employee solely because the employee may choose between the qualified parking and compensation.

The above amendment applies to tax years beginning after December 31, 1997.

P.L. 105-178, § 9010(b)(1):

Act Sec. 9010(b)(1) amended Code Sec. 132(f)(6) to read as above. Prior to amendment, Code Sec. 132(f)(6) read as follows:

(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section I(f)(3) for the calendar year in which the taxable year begins. If any increase determined under the preceding sentence is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.

P.L. 105-178, § 9010(b)(2)(A)-(B):

Act Sec. 9010(b)(2)(A)-(B) amended Code Sec. 132(f)(2) by striking "\$60" in subparagraph (A) and inserting "\$65", and by striking "\$155" in subparagraph (B) and inserting "\$175"

The above amendments apply to tax years beginning after December 31, 1998.

P.L. 105-178, § 9010(c)(1):

Act Sec. 9010(c)(1) amended Code Sec. 132(f)(2)(A) by striking "\$65" and inserting "\$100".

P.L. 105-178, § 9010(c)(2):

Act Sec. 9010(c)(2) amended Code Sec. 132(f)(6)(A) by adding at the end a new flush sentence to read as above.

The above amendments apply to tax years beginning after December 31, 2001.

P.L. 105-34, § 1072(a):

Act Sec. 1072(a) amended Code Sec. 132(f)(4) by adding at the end a new sentence to read as above.

The above amendment applies to tax years beginning after December 31, 1997.

P.L. 103-66, § 13201(b)(3)(F):

Act Sec. 13201(b)(3)(F) amended Code Sec. 132(f)(6)(B) by striking ", determined by substituting" and all that follows down through the period at the end thereof and inserting a period. Prior to amendment, Code Sec. 132(f)(6)(B) read as follows:

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "calendar year 1992" for "calendar year 1989" in subparagraph (B) thereof.

The above amendment applies to tax years beginning after December 31, 1992.

P.L. 102-486, § 1911(b):

Act Sec. 1911(b) amended Code Sec. 132 by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) new subsection (f) to read as above.

The above amendment applies to benefits provided after December 31, 1992.

[Sec. 132(g)]

(g) QUALIFIED MOVING EXPENSE REIMBURSEMENT.—For purposes of this section, the term 'qualified moving expense reimbursement' means any amount received (directly or indirectly) by an individual from an employer as a payment for (or a reimbursement of) expenses which would be deductible as moving expenses under section 217 if directly paid or incurred by the individual. Such term shall not include any payment for (or reimbursement of) an expense actually deducted by the individual in a prior taxable year.

Amendments

P.L. 103-66, § 13213(d)(2):

Act Sec. 13213(d)(2) amended Code Sec. 132 by redesignating subsections (g), (h), (i), (j), (k), and (l), as subsections (h), (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (f) a new subsection (g) to read as above.

The above amendment applies to reimbursements or other payments in respect of expenses incurred after December 31, 1993.

[Sec. 132(h)]

- (h) CERTAIN INDIVIDUALS TREATED AS EMPLOYEES FOR PURPOSES OF SUBSECTIONS (a)(1) AND (2).—For purposes of paragraphs (1) and (2) of subsection (a)—
 - (1) RETIRED AND DISABLED EMPLOYEES AND SURVIVING SPOUSE OF EMPLOYEE TREATED AS EMPLOYEE.—With respect to a line of business of an employer, the term "employee" includes—
 - (A) any individual who was formerly employed by such employer in such line of business and who separated from service with such employer in such line of business by reason of retirement or disability, and
 - (B) any widow or widower of any individual who died while employed by such employer in such line of business or while an employee within the meaning of subparagraph (A).
 - (2) SPOUSE AND DEPENDENT CHILDREN.—
 - (A) IN GENERAL.—Any use by the spouse or a dependent child of the employee shall be treated as use by the employee.
 - (B) DEPENDENT CHILD.—For purposes of subparagraph (A), the term "dependent child" means any child (as defined in section 151(c)(3)) of the employee—
 - (i) who is a dependent of the employee, or
 - (ii) both of whose parents are deceased and who has not attained age 25.

For purposes of the preceding sentence, any child to whom section 152(e) applies shall be treated as the dependent of both parents.